



STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

Date Introduced:	02/20/03	Bill No:	SB 402
Tax:	Transactions and Use	Author:	Florez
Board Position:		Related Bills:	SCA 2 (Torlakson) AB 160 (Salinas) AB 1412 (Wolk) ACA 7 (Dutra) ACA 9 (Levine)

BILL SUMMARY

This bill would authorize the Coalinga-Huron Recreation and Park District to levy a transactions and use tax at a rate of not less than 1/4 percent, but not to exceed 1/2 percent, subject to a majority approval of the governing board of the district and two-thirds approval of the voters, for funding of essential park and recreation services.

ANALYSIS

Current Law

The **Bradley-Burns Uniform Local Sales and Use Tax Law** (commencing with Section 7200 of the Revenue and Taxation Code) authorizes counties to impose a local sales and use tax. The tax rate is fixed at 1¼ percent of the sales price of tangible personal property sold at retail in the county, or purchased outside the county for use in the county. All counties and cities within California have adopted ordinances under the terms of the Bradley-Burns Law and levy the 1¼ percent local tax.

Under the Bradley-Burns Law, the ¼ percent tax rate is earmarked for county transportation purposes, and 1 percent may be used for city and county general purposes. Cities are also authorized to impose a local sales and use tax rate of up to 1 percent, which is credited against the county rate so that the combined local tax rate under the Bradley-Burns Law does not exceed 1¼ percent.

Under the **Transactions and Use Tax Law** (commencing with Section 7251 of the Revenue and Taxation Code), counties are additionally authorized to impose a transactions and use tax at a rate of ¼ percent, or multiple thereof, if the ordinance imposing that tax is approved by the voters. Under all sections of the Transactions and Use Tax Law, the maximum allowable combined rate of transactions and use taxes levied in any county may not exceed 1½ percent, with the exception of the City and County of San Francisco and the County of San Mateo, whose combined rates may not exceed 1¾ and 2 percent, respectively.

Section 7285 of the Transactions and Use Tax Law additionally allows counties to levy a transactions and use tax at a rate of ¼ percent, or multiple thereof, for general purposes with the approval of a majority of the voters. Section 7285.5 permits the board of

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supervisors of any county to levy a transactions and use tax at a rate of $\frac{1}{4}$ percent, or multiple thereof, for specific purposes with the approval of two-thirds of the voters.

Section 7288.1 also allows counties to establish a Local Public Finance Authority to adopt an ordinance to impose a transactions and use tax at a rate of $\frac{1}{4}$ percent, or multiple thereof, for purposes of funding drug abuse prevention, crime prevention, health care services, and public education upon two-thirds voter approval. Finally, Section 7286.59 allows counties to levy a transactions and use tax at a rate of $\frac{1}{8}$ or $\frac{1}{4}$ percent for purposes of funding public libraries, upon two-thirds voter approval.

As previously stated, Sections 7285, 7285.5, 7286.59, and 7288.1, authorize counties to levy transactions and use taxes under specified conditions. There is no such authority for cities to impose these taxes. Any city desiring to impose a transactions and use tax must seek special enabling legislation from the California legislature.

The following cities, through specific legislation, have received authorization to impose a transactions and use tax: Avalon, Calexico, Clearlake, Clovis, Davis, Fort Bragg, Fresno (and its sphere of influence), Lakeport, Madera, North Lake Tahoe (within boundaries established in legislation), Placerville, Point Arena, Redding, Salinas, Sebastopol, Town of Truckee, Ukiah, Visalia, West Sacramento, Willits, Woodland, and the Town of Yucca Valley. However, only the cities of Avalon, Calexico, Clearlake, Clovis, Placerville, Sebastopol (effective April 1, 2003), the Town of Truckee, West Sacramento (effective April 1, 2003), and Woodland are imposing a tax. The City of Fresno and its sphere of influence had imposed a tax for the period 7/1/93 through 3/21/96, however, this tax ceased to be operative, as it was declared unconstitutional in *Howard Jarvis Taxpayers' Association v. Fresno Metropolitan Projects Authority* (1995) 40 Cal.App.4th 1359, mod.(1996) 41 Cal.App.4th 1523a.

The Board performs all functions in the administration and operations of the tax ordinances under the Bradley-Burns Uniform Local Sales and Use Tax and the Transactions and Use Tax Law. All local jurisdictions imposing these local taxes are required to contract with the Board for administration of such taxes.

Proposed Law

This bill would add Chapter 3.61 (commencing with Section 7290.1) to Part 1.7 of Division 2 of the Revenue and Taxation Code to authorize the Coalinga-Huron Recreation and Park District to impose a transactions and use tax at a rate not less than $\frac{1}{4}$ percent but not to exceed $\frac{1}{2}$ percent, upon majority approval of the governing board of the district and subsequent two-thirds approval of the voters. The net revenues derived from the proposed tax would be used to provide essential park and recreation services.

The tax would be levied pursuant to existing law regarding transactions and use taxes (Part 1.6, commencing with Section 7251). This bill also includes findings and declarations that a special law is necessary because of the uniquely difficult fiscal pressures being experienced by the Coalinga-Huron Recreation and Park District in providing essential park and recreation services.

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In General

Currently, there are 40 special tax districts that impose transactions and use taxes within their respective borders. Additionally, there are 22 cities that have gained authorization to impose transactions and use taxes, 10 of which gained authorization during the 2002 legislative year. To date, only 9 cities [Avalon, Calexico, Clearlake, Clovis, Placerville, Sebastopol, the Town of Truckee, West Sacramento, and Woodland] have received voter approval and are imposing a tax within their city limits (transactions and use taxes for Sebastopol and West Sacramento begin on April 1, 2003).

COMMENTS

1. **Sponsor and purpose.** This bill is sponsored by the Coalinga-Huron Recreation and Park District to enable the district to raise additional revenues for essential park and recreation services.
2. **Suggested amendment to restrict transactions and use tax to a rate of 1/4 or 1/2 percent.** This bill would authorize the Coalinga-Huron Recreation and Park District to levy a transactions and use tax at a rate not less than 1/4 percent but not to exceed 1/2 percent. The Transactions and Use Tax Law authorizes counties to impose a tax in increments of 1/4. The reasoning behind the 1/4 percent increments is that it is easier for retailers to administer and collect the tax in even 1/4 percent increments.

Currently, there are 40 special districts that impose a transactions and use tax. Of these 40 districts, 34 impose a tax at a rate of 1/4 or 1/2 percent, five impose a tax at a rate of 1/8 percent, and one (City of Clovis) imposes a tax at a rate of 0.30 percent. Since this bill proposes a rate of at least 1/4 percent, but not to exceed 1/2 percent, the Board suggests that, for ease of administration, the bill be amended to restrict the tax to a rate of 1/4 or 1/2 percent.

3. **Special district imposing a tax along partial county boundaries creates problems.** This bill would impose a tax within the boundaries of the Coalinga-Huron Recreation and Park District, which includes the entire city limits of Coalinga and Huron and also includes approximately 500,000 acres within the unincorporated area of Fresno County.

Currently, all 40 special districts imposing a transactions and use tax have boundaries equal to their respective city and county lines. Without having defined city or county limits to impose the tax, administration and collection of the tax is extremely difficult. In processing returns and payments, the Board assigns a specific code in order to properly identify accounts within a transactions and use tax jurisdiction. As long as a tax is imposed within city or county limits, the Board can electronically identify accounts within such areas. However, because this bill would impose a tax along partial county lines, the Board would have to manually identify accounts and addresses falling within the boundaries of the special district. This would result in increased preparatory and administrative costs. Since the Board's

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administrative costs are capped pursuant to Section 7273, the State's General Fund must make up the difference between the costs incurred by the Board and the amount the Board is permitted to charge (see Comment 6).

Additionally, with a special district covering only a portion of the county, retailers who are engaged in business in the district and required to collect the tax would experience difficulty in determining who is inside and outside the district. Because the retailers do not have the resources to identify those consumers/customers located in the district, they will experience the greatest difficulty in administering and collecting this tax.

The last time the Board had to administer a tax levied by a special district that only covered part of a county was the former Fresno Metropolitan Projects Authority (FMPA) tax. (The Court of Appeal upheld the finding of the Superior Court that the FMPA was a private entity barred by Article XI of the California Constitution from levying the tax.) The boundaries of this district were bigger than the City of Fresno but smaller than Fresno County. Board staff had to set up accounts manually, resulting in higher costs. Also, retailers had trouble figuring out who was in the district and who was out of the district for purposes of applying the transactions and use taxes, and called the Board (often) to complain about how difficult this tax was to collect.

4. **This bill would set a precedent for all special districts to impose a transactions and use tax.** Currently, there are 40 special districts that impose a transactions and use tax, but the boundaries of these districts are coterminous with the boundaries of the cities and counties in which the tax is collected.

There are approximately 12,000 special districts (includes cities, redevelopment agencies, school districts, and other special districts) in California. These districts were formed for various purposes, such as: air pollution, airports, fire, flood, hospitals, libraries, mosquito abatement, park, public safety, school districts, sewer, and water. Some of these districts have boundaries that include multiple cities and counties.

Due to the budget cuts experienced by local governments, special districts are concerned that these cuts will affect the services they provide. The varying tax rates and varying districts with uneven boundaries would create an enormous burden on taxpayers.

5. **The tax rate imposed by cities and special districts limits the total transactions and use tax rate imposed within the county.** As stated previously, the Transactions and Use Tax Law limits the total rate of transactions and use taxes imposed within a county. The maximum allowable rate is 1 1/2 percent, except in the City and County of San Francisco and the County of San Mateo, which through special legislation, may not exceed 1 3/4 and 2 percent, respectively. As such, any transactions and use tax imposed by a city or special district counts against this 1 1/2 percent cap, and limits the total rate of tax imposed within the county.

The Coalinga-Huron Recreation and Park District is located in Fresno County. Currently, there are three transactions and use taxes imposed within Fresno County. Those taxes are: the Fresno County Transportation Authority tax at a rate of 1/2

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percent, the Fresno County Public Library tax at a rate of 1/8 percent, and the City of Clovis Public Safety tax at a rate of 0.30 percent. The total state and local tax rate throughout Fresno County, excluding the City of Clovis, is 7.875 percent. The total state and local tax rate in the City of Clovis is 8.175 percent. Therefore, because of the 1 1/2 percent cap, the remaining maximum rate of tax that Fresno County can impose is 0.575 percent.

6. **The Board's administrative costs would exceed the cap, resulting in the General Fund subsidizing this tax.** The Board's total administrative costs are driven by the workload involved in processing returns and payments, and are relatively fixed. Revenue and Taxation Code Section 7273 requires the Board to cap administrative costs based on the lesser of the ratio during the first full year the tax is in effect, or a predetermined amount based on the tax rate and applied to the revenues generated in the taxing jurisdiction. The maximum administrative costs for a district imposing a transactions and use tax rate of one-quarter of 1 percent is capped at 3 percent of the revenue generated, and for a district imposing a transactions and use tax rate of one-half of 1 percent is capped at 1.5 percent of the revenue generated.

Based on the projected revenues (see Revenue Estimate), if the Coalinga-Huron Recreation and Park District were to impose this tax, it is expected that the administrative costs would exceed the cap. This means that the General Fund must make up the difference between the costs incurred by the Board and the amount the Board is permitted to charge.

There are several local taxing jurisdictions, where the administrative costs exceed the cap. The Board's 2002-03 estimated base assessment of administrative costs to special taxing jurisdictions range between \$11,000 (City of Avalon Municipal Hospital and Clinic) and \$6.5 million (Los Angeles County Transportation Commission).

As previously stated, because the Board is limited in the amount it may charge special taxing jurisdictions, any shortfall that results from actual administrative costs exceeding the amount the Board may charge would impact the General Fund. For 2002-03, it is estimated that the General Fund will absorb approximately \$1.1 million as a result of the cap limitations on administrative cost recovery. However, this estimate could change when the actual revenues are known.

7. **Related Legislation.** Three bills introduced in 2003 would place on the ballot a constitutional amendment to change the voter approval requirement for special taxes. **ACA 7 (Dutra)** would constitutionally authorize counties, cities and counties, and regional transportation agencies, with the approval of 55 percent of the voters in the jurisdiction, to impose a transactions and use tax for a period of 20 to 30 years, as specified, at a rate of 0.50 percent to be used exclusively for transportation purposes. **ACA 9 (Levine)** would constitutionally authorize a city, county, or special district to impose, extend, or increase a general tax with a two-thirds approval of the voters, and with respect to a special tax, with a majority approval of the voters. **SCA 2 (Torlakson)** would constitutionally authorize cities, counties, cities and counties, and regional transportation agencies, with the approval of a majority of the voters in the jurisdiction, to impose a transactions and use tax to be used exclusively for

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funding transportation projects and services and related smart growth planning. The Board voted to support SCA 2.

Additionally, two bills introduced in 2003 would authorize cities to impose a transactions and use tax. **AB 160 (Salinas)** would authorize the city of Soledad, with the approval of 2/3 of the voters, to levy a 0.50 percent transactions and use tax for the purpose of funding identifiable capital facilities, furnishings, and equipment. **AB 1412 (Wolk)** would authorize the cities of American Canyon, Arleta, Benicia, Beverly Hills, Calistoga, Colton, Dixon, Fairfield, Fontana, Lake View Terrace, Los Angeles, Mission Hills, Napa, North Hills, North Hollywood, Pacoima, Panorama City, Petaluma, Rialto, Rio Vista, San Bernardino, San Fernando, Santa Rosa, St. Helena, Suisun City, Sun Valley, Sylmar, Vacaville, Vallejo, Van Nuys, Winters, and Yountville, subject to either a two-thirds or majority voter approval, depending on how the revenues will be spent, to levy a transactions and use tax at a rate of 1/4 or 1/2 percent.

COST ESTIMATE

This bill does not increase administrative costs to the Board because it only authorizes the Coalinga-Huron Recreation and Park District to impose a tax. However, if the voters approved the ordinance imposing the tax, the district would be required to contract with the Board to perform functions related to the ordinance, and reimburse the Board for its preparation costs to administer the ordinance as well as the ongoing costs for the Board's services in actually administering the ordinance.

Based on the Board's experience with similar special-purpose taxes, it is estimated that the one-time preparatory costs could range between \$15,000 and \$40,000. This one-time preparatory cost is not subject to the cap restriction under Revenue and Taxation Code Section 7273. However, the ongoing administrative costs are subject to the cap. For the Coalinga-Huron Recreation and Park District, the estimated ongoing assessed administrative costs could not exceed \$5,514 for the 1/4 percent rate ($\$183,800^1 \times 3\%$), and \$5,513 for the 1/2 percent rate ($\$367,500 \times 1.5\%$) {see Comment 6}. As noted in Comment 6, if the Coalinga-Huron Recreation and Park District were to impose this tax, it is expected that the administrative costs would exceed the cap and, therefore, increase the costs absorbed by the General Fund.

¹ See Revenue Estimate

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REVENUE ESTIMATE**Background, Methodology, and Assumptions**

Taxable sales in the cities of Coalinga and Huron in the 2001 calendar year were a combined \$73.5 million. A very small part of the Coalinga-Huron Recreation and Park District is in the unincorporated area of the Fresno County. We do not know the amount of taxable sales in the portion of the unincorporated area included in the district. The Board only segregates sales and use tax revenue by county and incorporated city in order to allocate the local sales tax revenue to the proper jurisdiction.

Revenue Summary

A transactions and use tax within the Coalinga-Huron Recreation and Park District would raise the following amounts annually, in the cities of Coalinga and Huron.

<u>Rate</u>	<u>Revenue</u>
¼%	\$ 183,800
½ %	367,500

Analysis prepared by:	Debra A. Waltz	916-324-1890	03/21/03
Revenue estimate by:	Dave Hayes	916-445-0840	
Contact:	Margaret S. Shedd	916-322-2376	

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Attachment 1
California Sales, Transactions and Use Tax Rates by County
Effective 01/01/02

01 Alameda	
State	6.00
Local	1.25
ACTA#	0.50
ACTI#	0.50
BART	0.50
	<hr/> 8.25

02 Alpine	
State	6.00
Local	1.25
	<hr/> 7.25

03 Amador	
State	6.00
Local	1.25
	<hr/> 7.25

04 Butte	
State	6.00
Local	1.25
	<hr/> 7.25

05 Calaveras	
State	6.00
Local	1.25
	<hr/> 7.25

06 Colusa	
State	6.00
Local	1.25
	<hr/> 7.25

07 Contra Costa	
State	6.00
Local	1.25
CCTA	0.50
BART	0.50
	<hr/> 8.25

08 Del Norte	
State	6.00
Local	1.25
	<hr/> 7.25

09 El Dorado	
State	6.00
Local	1.25
PLPS*	0.25
	<hr/> 7.50

10 Fresno	
State	6.00
Local	1.25
FCTA	0.50
FCPL	0.125
CCPS*	0.30
	<hr/> 8.175

11 Glenn	
State	6.00
Local	1.25
	<hr/> 7.25

12 Humboldt	
State	6.00
Local	1.25
	<hr/> 7.25

13 Imperial	
State	6.00
Local	1.25
IMTA	0.50
CXHD*	0.50
	<hr/> 8.25

14 Inyo	
State	6.00
Local	1.25
INRC	0.50
	<hr/> 7.75

15 Kern	
State	6.00
Local	1.25
	<hr/> 7.25

16 Kings	
State	6.00
Local	1.25
	<hr/> 7.25

17 Lake	
State	6.00
Local	1.25
CLPS*	0.50
	<hr/> 7.75

18 Lassen	
State	6.00
Local	1.25
	<hr/> 7.25

19 Los Angeles	
State	6.00
Local	1.25
LATC	0.50
LACT	0.50
AMHC*	0.50
	<hr/> 8.25

20 Madera	
State	6.00
Local	1.25
MCTA	0.50
	<hr/> 7.75

21 Marin	
State	6.00
Local	1.25
	<hr/> 7.25

22 Mariposa	
State	6.00
Local	1.25
MCHA	0.50
	<hr/> 7.75

23 Mendocino	
State	6.00
Local	1.25
	<hr/> 7.25

24 Merced	
State	6.00
Local	1.25
	<hr/> 7.25

25 Modoc	
State	6.00
Local	1.25
	<hr/> 7.25

26 Mono	
State	6.00
Local	1.25
	<hr/> 7.25

27 Monterey	
State	6.00
Local	1.25
	<hr/> 7.25

28 Napa	
State	6.00
Local	1.25
NCFP	0.50
	<hr/> 7.75

29 Nevada	
State	6.00
Local	1.25
NVPL	0.125
TRSR*	0.50
	<hr/> 7.875

30 Orange	
State	6.00
Local	1.25
OCTA	0.50
	<hr/> 7.75

31 Placer	
State	6.00
Local	1.25
	<hr/> 7.25

32 Plumas	
State	6.00
Local	1.25
	<hr/> 7.25

Attachment 1
California Sales, Transactions and Use Tax Rates by County
Effective 01/01/02

33 Riverside	
State	6.00
Local	1.25
RCTC	0.50
	<u>7.75</u>

34 Sacramento	
State	6.00
Local	1.25
STAT	0.50
	<u>7.75</u>

35 San Benito	
State	6.00
Local	1.25
	<u>7.25</u>

36 San Bernardino	
State	6.00
Local	1.25
SBER	0.50
	<u>7.75</u>

37 San Diego	
State	6.00
Local	1.25
SDTC	0.50
	<u>7.75</u>

38 San Francisco	
State	6.00
Local	1.25
SFTA	0.50
SFPF	0.25
BART	0.50
	<u>8.50</u>

39 San Joaquin	
State	6.00
Local	1.25
SJTA	0.50
	<u>7.75</u>

40 San Luis Obispo	
State	6.00
Local	1.25
	<u>7.25</u>

41 San Mateo	
State	6.00
Local	1.25
SMTA	0.50
SMCT	0.50
	<u>8.25</u>

42 Santa Barbara	
State	6.00
Local	1.25
SBAB	0.50
	<u>7.75</u>

43 Santa Clara	
State	6.00
Local	1.25
SCCT	0.50
SCGF	0.50
	<u>8.25</u>

44 Santa Cruz	
State	6.00
Local	1.25
SCMT	0.50
SZPL	0.25
	<u>8.00</u>

45 Shasta	
State	6.00
Local	1.25
	<u>7.25</u>

46 Sierra	
State	6.00
Local	1.25
	<u>7.25</u>

47 Siskiyou	
State	6.00
Local	1.25
	<u>7.25</u>

48 Solano	
State	6.00
Local	1.25
SLPL	0.125
	<u>7.375</u>

49 Sonoma	
State	6.00
Local	1.25
SCOS	0.25
	<u>7.50</u>

50 Stanislaus	
State	6.00
Local	1.25
STCL	0.125
	<u>7.375</u>

51 Sutter	
State	6.00
Local	1.25
	<u>7.25</u>

52 Tehama	
State	6.00
Local	1.25
	<u>7.25</u>

53 Trinity	
State	6.00
Local	1.25
	<u>7.25</u>

54 Tulare	
State	6.00
Local	1.25
	<u>7.25</u>

55 Tuolumne	
State	6.00
Local	1.25
	<u>7.25</u>

56 Ventura	
State	6.00
Local	1.25
	<u>7.25</u>

57 Yolo	
State	6.00
Local	1.25
WOGT*	0.50
	<u>7.75</u>

58 Yuba	
State	6.00
Local	1.25
	<u>7.25</u>

*ACTA expired 3/31/02 and ACTI became operative 4/1/02. The tax rate remained unchanged at 8.25%.
The tax in this district is not imposed throughout the county; it is a citywide tax. The county total includes the citywide district tax.